REMARKS/ARGUMENTS

Claim Amendments

The Applicant has amended no claims. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-3, 5-15, and 17-25 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

Claim Rejections – 35 U.S.C. § 102(e)

Claims 1, 3, 5, 7-9, 13-15, 17, 19, 21 and 25 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Chapman, et al. (US Patent No. 6,922,390 B1). The Applicant respectfully traverses the rejection of these claims.

MPEP § 2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the … claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claims.

The present invention prevents unnecessary congestion notifications (page 4, lines 1-17) that could be useless or even damaging to the overall performance (page 3, lines 35-37). In other words, particular packets have a special status in that these packets should not trigger or experience a congestion notification. The Applicant respectfully directs the Examiner's attention to claim 1:

> 1. (Previously Presented)   A method of controlling a queue buffer arranged to queue data units received over a communication network, comprising:
>   invoking a congestion notification procedure under a predetermined condition, wherein said congestion notification procedure comprises
>   confirming whether one or more queued data units contain a predetermined congestion information,

> performing a congestion notification with respect to the one
> or more queued data units if no queued data units contain said
> predetermined congestion notification prevention information, and
> preventing a performance of a congestion notification at
> least with respect to the one or more queued data units containing
> said predetermined information and belonging to a same flow as
> said queued data units. (emphasis added)

The Applicant respectfully submits that Chapman does not disclose every element of claim 1 or the other analogous independent claims. The Chapman reference (column 5, lines 34-35, check for congestion stamp) is cited as disclosing the limitation of determining whether one or more of said queued data units contains a predetermined congestion notification prevention information. The Applicant respectfully disagrees with the Examiner's interpretation of the cited portion of Chapman.

This cite concerns Chapman's congestion stamp which is introduced earlier as a "control signal" at column 5, lines 12-20 and takes the form of a "congestion stamp" in lines 21-23. Control unit 200 detects congestion at "node 104" and generates "... a control signal that is effective to reduce the level of congestion." Furthermore, Chapman in column 5, lines 34-47 attaches the congestion stamp on a control packet that is transmitted back to the sender (this is the action that the Applicant's invention prevents). Further on, lines 48-64 disclose the sender receiving the congestion stamp and "...reducing its rate of release of traffic units to reduce the congestion." As noted above, the Applicant's present invention prevents unnecessary congestion notifications.

Additionally, the Chapman reference fails to disclose whether the queued data units include the congestion information (this is not a congestion stamp, as the data unit is not provided with the information to signify congestion but to confer a particular status on the data unit). Also, Chapman does not disclose a congestion notification if no data units contain the information, nor does Chapman prevent a congestion notification.

Contrary to the Examiner's statement that all elements are disclosed in the Chapman reference, the Applicant respectfully submits that the above subject elements are not disclosed. So, the rejection is unsupported by the art and should be withdrawn.

Claims 3, 7-9, 13, 15, 19 21 and 25 depend from claims 1, 5, 14 and 17 respectively and recite further limitations in combination with the novel elements of

claims 1, 5, 14, and 17. Therefore, the allowance of these claims is respectfully requested.

Claim Rejections – 35 U.S.C. § 103 (a)

Claims 2, 12, and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chapman et al (US Patent no. 6,922,390 B1) in view of Sindhu, et al. (US Patent No. 7,359,321 B1). The Applicant respectfully traverses the rejection of these claims.

As discussed above, the base claims 1, 5 and 17, from which claims 2, 12 and 24 depend, contain elements which are not found in Chapman. Furthermore, under MPEP § 2142, "[i]f the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness." The Sindhu reference is cited for disclosing dropping and marking a given data unit. It is submitted that the Sindhu reference does not provide the missing claim limitations. Thus, the combination of Chapman and Sindhu does not teach all of the claim elements and the Office Action does not factually support a prima facie case of obviousness. The Applicant, therefore, respectfully requests that this rejection be withdrawn.

Claims 2, 12 and 24 depend from claims 1, 5 and 17 and recite further limitations in combination with the novel elements of claims 1, 5 and 17. Therefore, the allowance of claims 2, 12 and 24 is respectfully requested.

Claims 6 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chapman et al in view of Thoo, et al. (EP No. 0,955,749 A1). The Applicant respectfully traverses the rejection of these claims.

As discussed above, the base claims 5 and 17, from which claims 6 and 18 depend, contain elements which are not found in Chapman. The Thoo reference is cited for disclosing determining whether the congestion notification prevention condition is fulfilled. It is submitted that the Thoo reference does not provide the missing claim limitations. Thus, the combination of Chapman and Thoo does not teach all of the claim elements and the Office Action does not factually support a prima facie case of

obviousness. The Applicant, therefore, respectfully requests that this rejection be withdrawn.

Claims 6 and 18 depend from claims 5 and 17 respectively and recite further limitations in combination with the novel elements of claims 5 and 17. Therefore, the allowance of claims 6 and 18 is respectfully requested.

Claims 10, 11, 22 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chapman et al in view of Brothers, et al. (US Patent No. 6,822,955). The Applicant respectfully traverses the rejection of these claims.

The Brothers reference is cited for disclosing that the data unit sender is part of a proxy server and that the proxy server is connected to a mobile communications network. The base claims 5 and 17, from which claims 10, 11, 22 and 23 depend respectively, contain elements which are not found in Chapman. It is submitted that the Brothers reference does not provide the missing claim limitations. Thus, the combination of Chapman and Brothers does not teach all of the claim elements and the Office Action does not factually support a prima facie case of obviousness. The Applicant, therefore, respectfully requests that this rejection be withdrawn.

Claims 10, 11, 22 and 23 depend from claims 5 and 17 and recite further limitations in combination with the novel elements of claims 5 and 17. Therefore, the allowance of claims 10, 11, 22 and 23 is respectfully requested.

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CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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